

REMARKS

The preceding amendments to the specification (Abstract), drawings and claims are being made in response to the Examiner's first Office Action on the merits in the above-identified application mailed on August 1, 2003. Insofar as this paper is being submitted within four months of the filing date (being mailed on the Monday following the weekend on which the last day of the four month period ends), this paper is being accompanied by a request for a one-month extension of time and the appropriate (small entity) fee for such extension.

AMENDMENT TO THE ABSTRACT

The amendments made to the Abstract are for the purpose of removing the phrase "is disclosed" to which objection was made by the Examiner in paragraph "5." of the Office Action. Applicants have removed the objectionable language and added other phraseology in order to insure grammatical accuracy in the Abstract. In addition, the language beginning on line 10 of the Abstract relating to the description of the method disclosed in the application has been deleted.

IN THE DRAWINGS

With respect to the drawings, submitted herewith is a set of formal "replacement" drawings in which all of the reference numerals noted by the Examiner in paragraph "6." of the Office Action have been added (without introducing new matter). Additionally, the circle identified by the numeral "5" referred to on page 7 of the specification (in the BRIEF DESCRIPTION OF THE DRAWINGS) has been added to Figure 4, and the language describing Figure 5 on page 7 of the specification has been corrected to indicate that the "circle 5" is shown in Figure 4.

OBJECTION TO THE CLAIMS

In paragraph "8." Of the Office Action, the Examiner objected to claim 16 as a result of the improper inclusion of a period after the word "includes". This problem has been remedied by an appropriate amendment to claim 16.

REJECTION OF THE CLAIMS UNDER 35 USC 112, SECOND PARAGRAPH

With regard to the rejections of claims 8-13 and 16 under 35 USC 112, second paragraph, as set out on page 4 of the Office Action, it has been determined that the claims in question ought to have depended from claim 6 which held proper antecedent for the recitations of claims 8, 10, 12 and 16, not from claim 1. Accordingly, appropriate changes of claim dependency have been made per the above amendments. Further, claim 9 has been cancelled so that rejection ought not now be an issue.

REJECTION OF CLAIMS UNDER 35 USC 103(a)

Claims 1-11, 14 and 17 have been rejected under 35 USC 103(a) as being unpatentable over Stanley (US 3,774,929A) in view of Elders (US 3,162,462A). The Examiner indicated that the Stanley patent discloses all structure claimed with the exception of a lower basket assembly having a door for accessing the interior of the lower basket when the upper basket is opened, but that the Elders patent teaches a door 66 for accessing the interior of the lower basket assembly 60 located beneath the upper basket 50. [It is believed that the claims in this application do not recite a door.]

Claim 15 was rejected under 35 USC 103(a) as being unpatentable over Stanley and Elders as applied to claim 1, and further in view of Luff (US 3,310,317A), the Luff patent teaching parallel hook members called out in claim 15.

Claim 16 was rejected under 35 USC 103(a) as being unpatentable over Stanley and Elders as applied to claim 1, and further in view of Sawyer et al. (US 5,901,482A) noting that Sawyer et al. discloses tag holders 22, 24 for attachment to the front panel of a shopping cart 10.

Applicants respectfully traverse these rejections and request reconsideration and allowance of the rejected claims for the following reasons.

The Stanley patent on which the rejections are principally based discloses a personal utility cart having a frame 16 which forms part of a collapsible lower basket assembly 12, 14. A collapsible upper basket assembly 100 is supported atop the lower collapsible basket assembly. The upper basket assembly 100 can be collapsed and folded into a planar structure which, as shown in Figure 4 of the Stanley patent, is positioned to overlie the lower basket assembly in such a manner that a forward portion is supported on the uppermost member of the forward panel of the cart and a rearward portion of the upper basket assembly 100 is engaged by a hooked portion 102 with the rear panel of the cart.

As amended, claim 1 now recites a frame, a first basket assembly having a portion pivotably secured to said frame, a second basket assembly disposed atop the first basket assembly and having a portion pivotably secured to said frame, ..., **said first and second basket assemblies being pivotable on said frame toward said handle upper portion so that said first and second basket assemblies can be collapsed against a portion of said frame into a compact and substantially planar structure.**

Applicants wish to point out that the underlined bold text noted above constitute the last paragraph of claim 1 as originally presented, and none of that language has been changed by this paper or the Election and Response submitted May 7, 2003.

In the Stanley patent, as noted above, the upper basket assembly 100 can be folded into a planar structure and hooked onto the rear panel of the Stanley cart by hook member 102. When it is desired to collapse the Stanley cart, the upper basket assembly 100 is first collapsed to form a flat horizontal structure, as shown in Figure 4 of Stanley, and the hook member 102, which is a part of the upper basket assembly, is then removed from the cart's rear panel 50 while the flattened upper basket assembly 100 is then hung from the rear panel of the cart by hooks 150 formed in and extending from the cart rear panel

The upper basket assembly 100 of Stanley is not pivotably secured to the frame but rather hooked to the rear panel of the frame, and this is not for enabling pivoting movement of the basket assembly 100 relative to the cart rear panel, but rather to provide a means of support for the rear of the upper basket assembly to counteract the weight of the basket assembly 100, especially as that basket assembly gets filled with merchandise.

Further, when collapsing the cart of Stanley, the upper and lower basket assemblies of that patent do not pivot on the frame toward the handle upper portion, as required by the last recitation of claim 1.

It is for these reasons that the rejection of claims under 35 USC 103(a) as being unpatentable over the Stanley patent, regardless of any other teachings that have been cited by the Examiner, is believed to be improper and the Stanley patent does not support the said rejections. Accordingly, withdrawal of this set of rejections is respectfully solicited, as is allowance of the claims as presently amended.

ADDITIONAL REMARKS

The withdrawal of claims 18-23 from further consideration is hereby acknowledged. It is noted that no requirement to cancel such claims has as yet been made. A divisional application is currently being contemplated for the purpose of having these claims examined, and in the event that such an application is deemed necessary and is submitted, or that a requirement is imposed, these claims will be cancelled from the present application.

Further, the indication of allowable status of claims 12 and 13, subject to elimination of the bases for objection and rejection under 35 USC 112 is acknowledged with appreciation. It is hoped that the amendments to claims 1, 10 and 12 will enable the Examiner to place all claims in this application in condition for allowance.

CONCLUSION

Entry of the foregoing amendments to this application is respectfully solicited, as is allowance of the claims of the Group I invention now remaining in the application. No new matter has been introduced by the foregoing amendments. If the Examiner has any questions or requires further information or explanation, he is invited to contact the undersigned at the telephone numbers provided below.

Respectfully submitted on behalf of applicants,



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